IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2431 OF 2005

Union of India ... Petitioner

Vs.

V.T. Gautam ... Respondents

Mr. S.V. Masurkar with Mr. Kiran Kanpile i/by Dr. T.C. Kaushik for Petitioner.

Mr. Ramesh Ramamurthy for Respondents.

CORAM: F.I. REBELLO &
MRS.V.K.TAHILRAMANI,JJ.
DATE : 4TH AUGUST, 2006

P.C.:

. Rule. Heard forthwith.

. We have considered the impugned order. The major grievance of the Petitioners herein is that the tribunal in the absence of any pleadings or relief in the O.A. merely at the oral request of the Petitioner has converted the acceptance of the resignation into one that of voluntary retirement.

. On behalf of the Respondents, their learned counsel draws our attention to the letter dated 12.7.2000 wherein he has referred to the completion of 20 years and as such entitled to voluntary retirement. There aer no such pleadings in the O.A. The resignation letter was written on 28.02.1995 on which date admittedly the Petitioner had not completed 20 years of service. The case of the petitioner is that the letter of resignation was withdrawn.

. The only issue that remains now is after the petitioner has given up, the disciplinary proceedings, whether to treat the letter of the respondent as letter of resignation and or letter of voluntary retirement. Considering that the impugned order is set aside and matter is remanded back to the tribunal with liberty to the respondent to amend his O.A. in order to plead necessary facts as also relief. On so doing, the learned tribunal to give opportunity to the Respondent herein and thereafter to dispose of the matter according to law at any rate not later than four weeks from today.

. Rule made absolute accordingly. No order as to costs.

(MRS.V.K.TAHILRAMANI,J.) **(F.I.REBELLO, J.)**